

# **SPECIAL MEETING OF BERKELEY COUNTY COUNCIL**

**June 17, 2010**

A **Special Meeting of Berkeley County Council** was held on Thursday, **June 17, 2010**, at 2:02 p.m., in the Berkeley County Supervisor's Conference Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

PRESENT: Mr. Daniel W. Davis, Supervisor, Chairman; Mr. Caldwell Pinckney, Jr., Council Member District No. 7, Vice Chairman; Mr. Timothy J. Callanan, Council Member District No. 2; Mr. Robert O. Call, Jr., Council District No. 3; and Mr. Dennis L. Fish, Council Member District No. 5; Mr. Steve C. Davis, Council Member District No. 8; Ms. Nicole Scott Ewing, County Attorney; Mr. Joshua Gruber, Assistant County Attorney; and Ms. Barbara B. Austin, Clerk of County Council. Also present by teleconference were: Mr. Phillip Farley, Council Member District No. 1; Mrs. Cathy S. Davis, Council Member District No. 4; and Mr. Jack H. Schurlknight, Council Member District No. 6.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Daniel Davis called the meeting to order. Council Member Pinckney gave the Invocation, and Council Member Fish led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Daniel Davis: "Ok, for the record, all Members of Council are present. We do have by telephone Councilman Schurlknight, Councilman Davis and Councilman Farley – Councilman Cathy Davis, that's correct."

## **EXECUTIVE SESSION**

It was moved by Council Member Steve Davis and seconded by Council Member Fish to enter into **Executive Session** to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the County; discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property; the receipt of legal advice, where the legal advice relates to a pending, threatened or potential claim; or other matters covered by the attorney/client privilege; settlement of legal claim; or the position of the County in other adversarial situations involving the assertion against the County of a claim. The motion passed by unanimous voice vote of Council.

Council entered into Executive Session at 2:11 p.m., and returned to its Special Council Session at 2:44 p.m.

Ms. Nicole Scott Ewing, County Attorney: “Mr. Chairman, Council went into Executive Session for the reasons stated in the motion. No action was taken.”

**PUBLIC DISCUSSION – none**

**PROCLAMATION**

**PROCLAMATION DESIGNATING JUNE 20-27, 2010 AS AMATEUR RADIO WEEK IN BERKELEY COUNTY.”**

It was moved by Council Member Callanan and seconded by Council Member Steve Davis to **approve the proclamation** designating June 20-27, 2010 as **Amateur Radio Week**. The motion passed by unanimous voice vote of Council. (A copy of this proclamation is attached to these minutes.)

**SECOND READING**

**“BILL NO. 10-20, AN ORDINANCE PROVIDING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2010 AND ENDING JUNE 30, 2011 FOR BERKELEY COUNTY; TO PROVIDE FOR LEVY OF TAXES ON ALL TAXABLE PROPERTY IN BERKELEY COUNTY FOR ALL COUNTY PURPOSES; TO PROVIDE FOR THE EXPENDITURES OF SAID TAXES AND OTHER REVENUES COMING INTO THE COUNTY THAT WOULD NOT INCLUDE THE 29 PERCENT LOCAL OPTIONS SALES TAX OPTION, AND WOULD ONLY TAKE \$500,000 FROM THAT FUND FOR BUDGET PURPOSES FOR THE FISCAL YEAR.”**

It was moved by Council Member Steve Davis and seconded by Council Member Call to **approve Bill No. 10-20 for Second Reading**.

Chairman Daniel Davis: “Any discussion?”

Council Member Callanan: “I would like to...”

Council Member Cathy Davis: “Can you...”

Council Member Callanan: “Go ahead.”

Council Member Cathy Davis: “Can you read the whole – I’m not there, so, I’m not sure what the second item is.”

Council Member Steve Davis: “You want to read the bill...”

Council Member Callanan: “This is the budget, right.”

Council Member Cathy Davis: "Ok; and what was the motion?"

Council Member Steve Davis: "To approve it."

Council Member Farley: "To approve with the 29 percent?"

Council Member Steve Davis: "Yeah; with the 29 percent, just as it's stated here."

Council Member Fish: "I have a question. Number one, this is..."

Council Member Cathy Davis: "Who made the motion to approve it?"

Council Member Steve Davis: "Steve Davis."

Council Member Cathy Davis: "Ok."

Council Member Farley: "Let me ask ya – I'd like to be recused, and I'd like to have the Voting and Registration Department voted on separately from that as a whole, if we could do that?"

Chairman Daniel Davis: "We can do that."

Council Member Fish: "Mr. Chairman, Number one, I'd like to ask the question – in the reading here, it says that the \$500,000 of the Local Options Tax is not a part of the budget. I think we need to mention it to make sure that the budget reflects that, and not just the title. Is that your understanding, Mr. Davis?"

Council Member Steve Davis: "Say that again, Mr. Fish, because that got me confused."

Council Member Fish: "The title; the title of the resolution says the Local Options Sales Tax is not included, but the budget doesn't show that, and I think the budget needs – the budget resolution needs to show it does not include the Local Options Sales Tax."

Chairman Daniel Davis: "What we need are the corrections as I've asked before. Since ya'll – since you made the recommendation that the Local Options Sales Tax be removed, you know, we wanted those amendments, those changes in writing. So, I'm – you know, I think, what we're doing, is we're passing the budget along still without the 29 percent, but waiting those changes in the budget to reflect where those..."

Council Member Steve Davis: "Yeah, Third Reading is coming up."

Council Member Fish: "I assumed, when the motion was made, that is the writing from the budget."

Council Member Steve Davis: "Not the motion made in lieu of what Bill No. 10-20 said, providing, and it says, 'to provide for the expenditures of said taxes and other revenues coming into the County that would not include the 29 percent Local Sales Tax Option'."

Council Member Fish: "I want to make sure the budget does not include the 29 percent..."

Chairman Daniel Davis: "It does not..."

Council Member Steve Davis: "It does not at this point."

Chairman Daniel Davis: "It's taken out now, but again, I think, you made the motion, and we were asking for the changes that you're going to reflect in the budget."

Ms. Ewing: "May I clarify from a procedural point?"

Council Member Steve Davis: "Yeah."

Ms. Ewing: "Mr. Davis has presented his budget, and he has fulfilled his statutory obligation. The motion tonight, or this afternoon, was made to adopt the budget as listed on the agenda. However, in order to actually adopt it prior to Third Reading, ya'll need to present your suggested changes. You know, if you're gonna cut out the 29 percent, how are you gonna pay for these debt purchases and all that kind of stuff, because if we have a corresponding increase in the General Fund, we're gonna have a corresponding decrease. So, we haven't gotten that information yet."

Council Member Schurlknight: "Mr. Chairman?"

Council Member Fish: "To do a possible 2.6 percent cut..."

Chairman Daniel Davis: "Mr. Schurlknight?"

Council Member Schurlknight: "Yes; I just want to remind Council when we started to flip on the budget, I requested, in writing, alternate funding if we took the 29 percent away – how we were gonna fund those other line items. And, to-date, I haven't received anything yet in writing, so we could take a look at it."

Council Member Callanan: "So let me get this – Mr. Chair?"

Chairman Daniel Davis: "Mr. Callanan."

Council Member Callanan: "Let me get this straight. Are we – so, if this were to pass on Third Reading, we would essentially just – all we'd have to do is do one further amendment to provide how we're going to reduce the budget, essentially, to offset the 29 percent, less 500."

Chairman Daniel Davis: "I don't think we could have Third Reading of the budget just as it is right now, because it's balanced, and it reflects the 29 percent. So, before we have Third Reading, we're gonna have to account for those revenues of the 29 percent, less the \$500,000, as designated for Jedburg."

Council Member Callanan: "So, all that would be done outside of, I mean, essentially – I'm just trying to figure out – the details of this is going to be – right now, it simply says it's not gonna have the 29 percent, less the 500. So, if we were to do an amendment stating an offset to that, would that – would that be appropriate or is that – an amendment, another amendment to this, essentially, offsets that decrease in revenue with a offsetting decrease in spending?"

Chairman Daniel Davis: "Well, the figures – what we need to have Third Reading on this are the figures where, where we're taking this money here and where we're putting it over here. I mean, we've got to have – the budget are the figures, so, we need those before we can have Third Reading."

Ms. Ewing: "I think you gentlemen are saying the same thing, Mr. Callanan. You could do it in one amendment if you did, I think, as Mr. Fish was suggesting, to do a straight cut across the board for every department. So, the one 2.6 percent cut that Mr. Fish mentioned can do everything that you asked to be one amendment. However, if you wanted to dig into the budget and highlight certain things or take out certain things instead of doing a percentage decrease, than that would involve multiple amendments. Do you understand?"

Council Member Fish: "Mr. Chairman?"

Ms. Ewing: "So it could be done in one amendment, but it may need more than one."

Chairman Daniel Davis: "Mr. Fish."

Council Member Fish: "I think, that one – is that you're resending on raising taxes to balance the budget, when in fact, you are. And then, since we weren't a part of individual budget, and since you choose to give elected officials based on prior spending, I think it would be more than fair, I make an amendment to cut – across the board cut, two and one-half percent, and we'd raise about 2.5 percent to replace that money. It would be expenditures across the board. Then the budget is back in balance without raising taxes. Is that where I make that amendment, motion request? Do I need to amend his motion?"

Ms. Ewing: "You can move to amend his motion, but again, this is only – no this is Council. I'm sorry, yes, you can."

Council Member Pinckney: "Mr. Chairman, let me ask a question."

Chairman Daniel Davis: "Go ahead."

Council Member Pinckney: "Mr. Fish, with the recommended, across the board cut, would that also include everything that we talked about on the Capital Improvement List, like the communication towers, and EMS, the additional ambulance? Is that what you're talking about?"

Council Member Fish: "Well, I just said is that Number 1, that percent of cost that we're gonna cut to provide that money, provide that..."

Council Member Pinckney: "Everything that was on that list?"

Council Member Fish: "That's exactly right. If you want to do that, than that's where the money comes from."

Council Member Callanan: "Everything, from my understanding, it would be – everything on that list – taking that list in its entirety, and subtracting out two and one-half percent, and then deciding what you, right? I mean, would that make sense?"

Council Member Fish: "It would be funded by an across the board cut. If it's that important to do that, than we'd fund it through an across the board from all departments."

Council Member Schurlknight: "Mr. Chairman?"

Supervisor Daniel Davis: "Mr. Schurlknight."

Council Member Schurlknight: "And, Mr. Chairman, if I could just offer a suggestion. I keep going back to, you know, to get something in writing. If Mr. Fish can give us something between now and Third Reading, so we could take a look at it. I start to get concerned when you start to press for a two and a half percent cut on everything. If we could get something like that to look at and see if everyone agrees with it. I don't have a problem with it. We can just hold off for Second Reading and just take into consideration what I was just talking about. I'd like to see something in writing so we can look at exactly how it's going to affect these departments."

Council Member Fish: "That's my motion. Look at it."

Council Member Steve Davis: "Mr. Chairman, I join with the Chairman of Finance, and the reason I join with him is because Mr. Fish also made a recommendation that they wanted to set aside \$500,000. Now, how do you factor in the \$500,000 with you're 2.6 cut across the board?"

Council Member Fish: "Well, that – that equates to about 2.4 or .5 percent of that Local Option Sales Tax. I'm saying 2.4 or .5 percent or \$500,000. I don't have the exact numbers on that."

Council Member Steve Davis: "So, you're just trying to find \$500,000?"

Council Member Fish: "Yeah; forget the percent, pull \$500,000..."

Council Member Steve Davis: “No matter how you affect other aspects of the services to be delivered to the citizens of Berkeley County?”

Council Member Fish: “[inaudible]”

Council Member Steve Davis: “You just don’t...”

Chairman Daniel Davis: “I’d like to recommend that we have, that we schedule a workshop, another budget workshop on this, and give enough time. Is two weeks – let’s see – when is our – if we schedule a workshop for, like, two weeks from now, and give you time to put those figures together? But, I do think we need the figures to look at. You’ve got to go in and determine where we’re gonna pull from and where we’re gonna add to.”

Ms. Kace Smith, Finance Director: “Excuse me, and that will be after Council Meeting later this month then.”

Council Member Callanan: “No; the Council Meeting later this month is gonna be Third Reading, so it will be too late by then.”

Ms. Ewing: “Unless we have a continuing resolution.”

Ms. Smith: “Yeah; that’s what I was trying to work out; yes, Sir. I’m confused with your motion, Mr. Fish, because I’m not sure if your 2.5 is trying to generate \$500,000, because we need...”

Mr. Fish: “It’s more like 2.6 million dollars. Let me – let me just – let me just – the motion back on First Reading was to do exactly what we’re – to keep you from doing what we’re doing today. [inaudible] to do that. I asked you, Mr. Supervisor and Finance, because we don’t want the Local Option Sales Tax, give us the numbers without that. The answer was, ‘well, we’ll do it on First Reading; y’all can correct it’. Ok; I want the numbers at two and a half percent taken across the board. So, now we’re doing what I asked for at First Reading.”

Ms. Smith: “Can I ask for clarification? Are you suggesting a decrease to salaries or...”

Mr. Fish: “However; probably, not out of salaries; probably out of operating costs. If elected officials can have a million dollars a year savings on their part of the budget, I’m convinced we’ve got the money in the budget. For two years and running, they’ve had almost a million dollars each year that they’ve under spent the budget. We’ve allocated them over five percent.”

Ms. Smith: “That’s not...”

Chairman Daniel Davis: “But you see, we can sit here and argue all day long, or discuss it all day long. The budget is comprised of figures. So – and, from the very beginning, I think, Mr. Schuriknight had requested that, the change in the figures, so, that’s what we need. What you’re recommending, the cuts, and how you’re recommending those, in writing and in figures,

so that we can look at them. And, we'll schedule a workshop and get back with you and give you enough time to do that. But, there's no problem with doing the continuing resolution. We did it last year, because of reassessment, so, that won't really present a problem."

Council Member Callanan: "So, are we doing a motion prior to that?"

Chairman Daniel Davis: "We have a motion to continue on – push the budget forward just as it is right now, which excludes the 29 percent, less the 500,000."

Council Member Steve Davis: "That's right, and I made the motion..."

Council Member Callanan: "You're gonna recall your motion, right?"

Council Member Fish: "Well, yeah, that's, basically, what my motion is, yeah."

Council Member Callanan: "Ok."

Council Member Fish: "But, I'll get the numbers for you."

Chairman Daniel Davis: "Ok; any further discussion?"

Council Member Callanan: "Do we have a date? We have a potential date for that?"

Chairman Daniel Davis: "No, but we'll work on that. I don't know that we're prepared to be able to..."

Ms. Barbara Austin, Clerk of Council: "The Regular Council Meeting is the 28<sup>th</sup>."

Chairman Daniel Davis: "Ok. Well, if we don't make – that's next week?"

Ms. Austin: "No, no; two weeks."

Council Member Steve Davis: "Two weeks from now."

Chairman Daniel Davis: "Ok. Well, Mr. Fish, why don't you tell us how much time you need to get that together, and then, we'll try accommodating. Again, we can do a continuing resolution, and that won't present any problem."

Council Member Fish: "It'll take me about a day to go across those numbers – to take two and a half across all of it [inaudible due to someone tampering with microphone]."

Chairman Daniel Davis: "All those in favor of the motion, please signify by saying, Aye. All opposed, say Nay."

Chairman Daniel Davis: "Did you say Nay?"



Council Member Fish: “Nay.”

The motion passed by majority voice vote of Council. Council Member Fish voted, “Nay”.

Ms. Austin: “Now, were you going to separate the...”

Chairman Daniel Davis: “Oh...”

Council Member Callanan: “We have a – yeah; we have to do a change.”

Ms. Ewing: “I don’t believe the motion ever got seconded.”

Council Member Callanan: “I’ll second Phillip’s amendment.”

Chairman Daniel Davis: “Which is to exclude the Voter’s Registration and Election Commission Budget.”

Ms. Austin: “Vote on that separately.”

Chairman Daniel Davis: “So, we’ll vote on the amendment, which is the Voter’s Registration and Election Commission Budget separately.”

Ms. Austin: “You need a motion to.”

Chairman Daniel Davis: “Yeah, we need a motion to vote on that separately.”

Council Member Callanan: “So move.”

Council Member Farley: “Second.”

Chairman Daniel Davis: “Any discussion on that? Alright, hearing none, all those in favor of just the Voter’s Registration and Election Budget, please signify by saying, ‘Aye’. All those opposed, ‘Nay’.”

The motion passed by unanimous voice vote of Council.

Chairman Daniel Davis: “Ok; and now, the full budget, minus the Voter’s Registration and Election Commission – all those in favor say, ‘Aye’. All those opposed, ‘Nay’.”

The motion passed by unanimous voice vote of Council.

## **RESOLUTIONS**

**“RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS IN THE 2009-2010 BERKELEY COUNTY BUDGET FOR COUNTY PURPOSES OTHER THAN AS SPECIFIED IN SAID BUDGET.”**

It was moved by Council Member Schurlknight and seconded by Council Member Fish to approve the resolution providing for a transfer of funds in the 2009-2010 Berkeley County Budget.”

Council Member Farley: “What is this transferring from, Kace?”

Ms. Austin: “Thirty thousand dollars for Ginger Hamilton’s...”

Chairman Daniel Davis: “Yeah, that’s the mail extra.”

Ms. Smith: “That’s from what we presented to you the other night or other evening.”

The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-25 is attached to these minutes.)

**“RESOLUTION AUTHORIZING THE BERKELEY COUNTY SUPERVISOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF MONCKS CORNER IN REGARDS TO THE PROVIDING OF ANIMAL CONTROL SERVICES.”**

It was moved by Council Member Schurlknight and seconded by Council Member Farley to approve the resolution authorizing the County Supervisor to enter into an intergovernmental agreement with the Town of Moncks Corner with regard to animal control services. The motion passed by unanimous voice vote of Council. (A copy of Resolution No. 10-26 is attached to these minutes.)

**“RESOLUTION CONSENTING TO THE ISSUANCE OF STATE-ISSUED CERTIFICATE OF FRANCHISE AUTHORITY TO BELL SOUTH COMMUNICATIONS, INC., DOING BUSINESS AS AT&T SOUTH CAROLINA.”**

It was moved by Council Member Callanan and seconded by Council Member Fish to approve the resolution consenting to the issuance of a state-issued Certificate of Franchise Authority to BellSouth Communications, Inc., doing business as AT&T.”

Ms. Ewing: “Mr. Chairman?”

Chairman Daniel Davis: “Yes, ma’am.”

Ms. Ewing: “At the Committee Meeting, a Member of Council, I believe, Mr. Davis, asked the service area for that franchise. I have confirmed that it’s for the entire unincorporated area.”

Chairman Daniel Davis: "Ok; thank you."

The motion passed by unanimous voice vote of Council. *(A copy of Resolution No. 10-27 is attached to these minutes.)*

## **REPORTS FROM STANDING COMMITTEES**

### **Committee on Finance**

**Council Member, Mr. Jack H. Schurlknight, Chairman**

Chairman Schurlknight: "I think Mr. Pinckney is going to do that for me."

Chairman Daniel Davis: "Ok; Mr. Fish – Mr. Pinckney."

Acting Chairman Pinckney: "Yes, sir; will do it. The Committee on Finance met on June 14, 2010, and several of the matters have been addressed earlier on this agenda."

### **Additional Funds for Postage for Tax Collector**

Acting Chairman Pinckney: "On recommendation of the Committee, I move to approve the transfer of \$30,000.00 from Contingency to the Tax Collector for additional postage." *(No second required.)*

The motion passed by unanimous voice vote of Council.

*(That concluded Chairman Schurlknight's report as presented by Acting Chairman Pinckney.)*

### **Committee on Public Works and Purchasing**

**Council Member, Mr. Robert O. Call, Jr., Chairman**

### **Wassamassaw CDBG Water Project**

Chairman Call: "Yes, Sir; Mr. Chairman, we have one issue, the Wassamassaw CDBG Water Project. I think Mr. Miley is here to give us the exact figures on that."

Mr. Micah Miley, BCWS Engineering Director: "We requested – the recommendation of the board is Greene Construction, in an amount of \$882,346. We were requested to find additional information to confirm that what had transpired would have no affect on the grant funding. Ed Rogers is gonna contact the Department of Commerce today to confirm that it does not."

Chairman Call: "I so move."

Ms. Ewing: “Mr. Chairman, procedurally, this matter is still at Council, because it was not a – it was held – sorry, because it was held at Committee. Council can pull it from Committee by two-thirds (2/3’s) of a vote if they wish to address that matter today.”

Chairman Call: “I think we...”

Chairman Daniel Davis: “She said that it was continued...”

Council Member Callanan: “It was held in the board – it was never voted on.”

Chairman Daniel Davis: “Could we get a motion to pull it from Committee?”

It was moved by Council Member Pinckney and seconded by Council Member Call to move the item of approving the contract for construction services for the Wassamassaw CDBG Water Project from the Committee on Water and Sanitation level to Special Meeting of Council level.

Council Member Callanan: “The questions that I have still on this are with regards to contract and insurance and all that. My understanding is they can’t – that without a contract, you can’t get a – a – you can’t get a bond or insurance. Have they been operating without bond – without a performance bond or insurance?”

Mr. Miley: “They have performance bonds and primary insurance.”

Council Member Callanan: “How’d they get on that contract?”

Mr. Miley: “I’m not exactly sure...”

Council Member Callanan: “Because that was the question I had, so, I called Greene’s office today. Greene’s office said they did have a contract.”

Mr. Ed Rogers, BCWS Customer Services Director: “They do. We require the bond and stuff before we execute the contract. That’s actually part of the contract. The contract secures that prior to the contract being approved. Of course, it can’t get approved unless he has proper bonding and stuff. He did provide that as part of his package.”

Council Member Callanan: “Ok; and, so, but he still does not have a written, a signed contract, a contract has not been signed by anybody in Berkeley County to Greene Construction on this, correct? Ok.”

Council Member Fish: “All three of you say that – no contract exists?”

Mr. Rogers: “He signs it. He hasn’t signed it.”

Chairman Daniel Davis called for the vote.

The motion passed by unanimous voice vote of Council.

It was moved by Council Member Pinckney and seconded by Council Member Call to approve the contract with Greene Construction, in the amount of \$882,346.00, with regard to the Wassamassaw CDBG Water Project. The motion passed by unanimous voice vote of Council.

*(That concluded Chairman Call's report.)*

**CORRESPONDENCE** – none

**UNFINISHED BUSINESS** – none

**NEW BUSINESS**

Chairman Daniel Davis: “We do have one item of new business, and I think someone has a motion.”

Council Member Call: “Our motion might have left. I gave it to him. Do you have another copy of that?”

Council Member Pinckney: “You gave it to Steve?”

Council Member Call: “Yeah; he said that he would make the motion. We can ask the attorney to make...”

Ms. Ewing: “If I may state the motion.”

Council Member Call: “State the motion.”

Chairman Daniel Davis: “Please state the motion.”

Ms. Ewing: “I’m gonna have to do it off the top of my head, so I apologize if it is ineloquent. I move to approve the personnel matter as presented by the County Attorney in Executive Session for an amount not to exceed \$13,603.39.”

It was moved by Council Member Call and seconded by Council Member Fish to **approve** the personnel matter, as presented by the County Attorney in Executive Session, for an amount not to exceed \$13,603.39. The motion passed by unanimous voice vote of Council.

**ADJOURNMENT**

It was moved by Council Member Fish and seconded by Council Member Pinckney to adjourn the Special Meeting of Council. The motion passed by unanimous voice vote of Council.

Meeting adjourned at 3:07 p.m.

**PUBLIC DISCUSSION** – none

S/Barbara B. Austin, CCC  
Clerk of Council

July 26, 2010  
Date Approved